IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE BILAL NAZKI**

**and**
**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION NO : 7409 of 1994**

Between:

M/s. Sri Vasavi Rajam Food Products (P) Ltd.,

Rep. by its Executive Director - S.Ramesh.
Cables and Conductors Division, Anthakapally,
Rajam. **..... PETITIONER**

AND

1.The A.P.State Electricity Board, Rep. by its Secretary,

Vidyut Soudha, Somajiguda, Hyderabad.
2.The Financial Adviser &

Chief Controller of Accounts (Resources) ,
APSEB., Vidyut Soudha, Somajiguda, Hyderabad.
3.The Govt. of A.P., Rep. by its Secretary,
Industries and Commerce (I.A) Department,

Secretariat Buildings, Hyderabad.
4.The General Manager,

District Industries Centre, Srikakulam. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue a writ or an order or a direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st and 2nd respondent in not paying the sales-tax to the petitioner on the materials supplied as highly illegal, arbitrary, unjust void and violative of the industrial policy of the Government contained in G.O.Ms.No.498 Industries & Commerce (I.A.) Department dated 16/10/1989, if necessary by declaring Memo No. FA&CCA(Resources)/321/FE/93 dated 24/09/1993 as highly illegal, arbitrary, unjust and void.

**Counsel for the Petitioner: MR.V.N.BABU DUBA**

**Counsel for the Respondent Nos.1 & 2: None appeared.**

**Counsel for the Respondent Nos.3 & 4: GP FOR INDUSTRIES & COMMERCE and SPL. GOVERNMENT PLEADER FOR COMMERCIAL TAXES.**

**The Court made the following :**

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**ORDER: (PER Sri Bilal Nazki, J)**

Heard learned Counsel for the petitioner. Government Pleader for Industries and Special Government Pleader for Commercial Tax are present. No body appears for the Electricity Board.

The petitioner was doing business with A.P. State Electricity Board. Admittedly, he had been granted exemption from payment of Sales Tax under G.O.Ms.No.498 Industries & Commerce (IA) Department dated 16-10-1989 and for this purpose he had been issued a certificate by the Industries Department. The Financial Advisor & Chief Controller of Accounts (Resources) of the A.P. State Electricity Board passed a memo, which is a memo of general nature. This memo made it clear that who ever was enjoying the tax benefit by way of exemption was not entitled to collect tax. We do not find any illegality in the said memo because now it is settled that if an industry was granted exemption from Sales Tax, such a dealer was not entitled to recover the Sales Tax from customers. Therefore, there is nothing illegal in the order passed.

Therefore, the writ petition is dismissed. Any amounts collected in pursuance of the interim orders shall be reimbursed to the Sales Tax Department if not already reimbursed within a period of two weeks from the date of receipt of a copy of this order. Copy shall be marked to the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad. No costs.

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(BILAL NAZKI, J)

30th August, 2004

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(S.ANANDA REDDY, J)

**LUR**

Copy to:

1.The Secretary, A.P.S.E.B.,

Vidyut Soudha, Khairtabad,

Somajiguda, Hyderabad.
2.The Financial Adviser &

Chief Controller of Accounts (Resources) ,
APSEB., Vidyut Soudha, Somajiguda, Hyderabad.
3.The Secretary, The Government of A.P.,

Industries and Commerce (IA) Department,

Secretariat Buildings, Hyderabad.
4.The General Manager,

District Industries Centre, Srikakulam.

5.Two CCs to the G.P. for Industries and Commerce,

High Court Buildings, High Court of A.P.,

Hyderabad.(O.U.T)

6.The Spl. Government Pleader for Commercial Taxes,

High Court Buildings, High Court of A.P.,

Hyderabad.(O.U.T)

7.The Commissioner of Commercial Taxes,

Andhra Pradesh, Hyderabad.

8.Two CD copies.